



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 7, 1998

Mr. Jason C. Marshall  
Nichols, Jackson, Dillard,  
Hagar & Smith  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR98-2991

Dear Mr. Marshall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 120097.

The City of Coppel received a request for all documents filed concerning a case that was referred to the Dallas County Grand Jury in a District Attorney letter dated August 13, 1998. You claim that most of the requested information is excepted from required public disclosure by section 552.108 of the Government Code. You indicate, however, that you will make available to the requestor all information that has previously been released. Gov't Code §§ 552.007(b), .223. We have considered the exception you claim for the remaining information and have reviewed the documents at issue.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

\* \* \*

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why section 552.108 applies. *See* Gov't Code §§ 552.108, .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You indicate that the requested information concerns a criminal investigation which was forwarded to the Dallas County District Attorney. You also explain that the District Attorney "rejected" the case "as having insufficient evidence to prove each element of the underlying offense. You state that the criminal investigation "concluded in a manner other than a finding of guilt or deferred adjudication." You have shown the applicability of section 552.108(a)(2).

If you have not already done so, we point out that information normally found on the front page of an offense report is generally considered public and must be released. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). We conclude that except for previously released information and basic information, the requested information may be withheld under section 552.108(a)(2).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard  
Assistant Attorney General  
Open Records Division

JDB\nc

Ref: ID# 120097

Enclosures: Submitted documents

cc: Mr. R. G. Harrell  
548 West. Oak Grove  
Coppell, Texas 75019  
(w/o enclosures)